



SAN BERNARDINO COUNTY
IHSS Advisory Committee Meeting Minutes
November 3, 2010

MEMBERS PRESENT

Nancy Barrett, Alternate
Sheila Brown
Barbara Chastain
G.G. Crawley
Patricia Dotson-Moss
Mary Gillion
Janice Jackson, Alternate
Patrick King
Roy Reynolds
Kim Risser
Patti Strauch
Sharon Swayzer – Alternate
Caroline Von Flue

MEMBERS ABSENT

Nelma Fennimore

MEMBERS OF THE PUBLIC

Bernard Domroy
Randy Schlecht

DAAS STAFF

Linda Nelson, Assistant to the Director
Debbie Lunt, Executive Secretary II

PUBLIC AUTHORITY STAFF

Myette Christian, Registry Manager
Rosa Hidalgo, Deputy Director

ACTION(S)/MOTIONS

1. Call to order and Introductions **9:30 a.m.**

2. Approve Minutes from October 6, 2010 meeting

Kim made motion to approve minutes, 1st - Pat King; 2nd Patricia Dotson-Moss Motion passed – Minutes approved.

3. Additions/Changes to Agenda **Yes**

G.G. requested that the CICA Conference be added to "Old Business".

4. PUBLIC COMMENT ON AGENDA ITEMS **None**

5. CHAIR'S REPORT (KIM)

Gaps – Areas that Department of Aging and Adult Services and the Public Authority Need to Resolve:

- Give recipients a rating based upon their level of need and give providers a rating based upon their skill level.
- Develop a Back-up Plan for recipients who do not have a provider or the provider does not show up. Currently the only back-up plan is for the recipient to call Adult Protective Services.
- Develop an alternative to calling APS – this should be a last resort.
- Some people interested in becoming providers are being turned away. They are being told Registry is closed.

Kim made a motion to ask the PA and DAAS to come up with a Backup Plan. 1st – Mary; 2nd – Patricia. Motion carried.

6. IHSS PUBLIC AUTHORITY REPORTS

(Myette)

- Helen is not able to be here today. Helen will be able to share some items that are being looked at regarding a back up plan for recipients – emergency situations.
- Kim added that she feels that an MOU should be developed regarding the back up plan.
- G.G. added that if a recipient finds a provider, the provider can begin working right away but the consumer is responsible for paying the provider. Once the provider passes background and attends orientation, then they will start receiving checks, including retro from the day they started working.
- Some providers mark that they will work in some area and then they won't actually do it. Rosa advised that the providers are contacted every 30 days about their information.

(ROSA)

- Helen is at a stakeholders meeting regarding upcoming changes to DOJ due to the expanded list of disqualifiers and how that will be implemented.
- Helen met with DAAS to get feedback so she could share at this stakeholder meeting.
- John has started training – recently conducted “Healthier You” Training – there was a good turn out and it seemed to be well received. The schedule of other training classes will be listed in the newsletter which should be out by the end of November.
- The National Caregiver Appreciation Day celebration in Rialto and Victorville is coming up. The IHSS Advisory Committee will have a table at each function. Patti will be responsible for the Rialto table and Caroline will be responsible for the Victorville table. The Rialto event is on Friday, November 19th and the Victorville event is on Wednesday, November 10th. There will be a speaker,

Brenda Premo, speaking about Disability Awareness.

- PA anticipates approximately 100 people in Victorville and 200 in Rialto.

NOTE: Thank you to all who donated items for the baskets. Thank you also to Caroline and Patti for getting the materials and putting them together. FABULOUS!!

- Next month there will be more info about the process of fingerprinting.

(MYETTE)

- The PA has re-opened the registry for all cities.

- Some consumers request a different provider list every week. The PA understands that sometimes it is not a good fit. We let them know when we are sending close to the last person.

7. DEPARTMENT OF AGING AND ADULT SERVICES (G.G.)

- 3300 providers have not completed the process.

- Some providers have received clearance letters and still have not come to orientation. If they have not completed the process by 12/31/10, they will be cut off.

- 126 providers have not passed their background checks – we term them at the end of each month so they do not get paid.

- The second week of November the department will be sending out letters to all recipients stating that their provider may be terminated because they have not completed this process.

8. BREAK

- Committee took break from 10:25 to 10:35

9. Committee Reports

Legislation

Please see attached handout from Caroline.

KIM – Kim read about In Home Supportive Services – Disability Rights of California. Telephone number for them is (213) 427-4787 or www.disabilityrights.ca.org. They

have offices in Los Angeles and Sacramento. Kim passed around the information for all to read.

FINANCE (PATTI)

No meeting was held – budget has passed but we have not received official notification that we have money.

GOALS, OUTREACH & AWARENESS

(G.G.)

- No meeting was held.

10. OLD BUSINESS

- Public Hearings were held:

- Yucca Valley – (3) attended
- Ontario – (3) attended
- Hesperia – (0) attended
- Fontana – (3) attended
- San Bernardino was cancelled

- It was suggested that people must not have any big issues that are bothering them or there would have been many people at the hearings.

- Another suggestion was made that if we do it again we call it a “Town Hall Meeting” instead of a public hearing.

- The manual for the IHSS Advisory Committee needs to be updated.

CICA (G.G.)

- G.G. and Caroline attended the CICA Conference from Friday, October 22 through Sunday, October 24:

- The first day we attended the Pre Conference - there was discussion on the nuts and bolts of the Advisory Committee and also the Brown Act.
- We learned that we cannot have someone be a part of our Committee Meeting from a telephone in another location. If someone connected to the meeting from an outside location, they would be obligated to post an agenda and allow people to attend at that location.

Linda Nelson will print out a copy (it is on the PA website). This should give us a copy of our ordinance and by-laws.

- Caroline and G.G. received a certificate for this training.
- G.G. attended **Gathering Resources**. John Wilkes, 54 has been on IHSS services for 30 years. He relies greatly on services. He is in a wheelchair and can't do things for himself. He has a website: www.ihsscoalition.org. He makes sure it is updated – he works on it daily. His site is also filled with other links where you can find everything.
- G.G. also attended **1115 Waiver**. This is where managed care will be mandatory for all seniors and people with disabilities that are on Medi-Cal. This is something that will be coming.
- G.G. also attended **Fraud** – Laura West, a D.A. out of Sacramento did this presentation on fraud. They try to do early detection to prevent fraud and make sure people do not hurt others. She said some people have hearts of gold and then you have the worst who will hurt others. There are also the people in the middle who would not steal from a store but wouldn't think twice about stealing from the IHSS Program. They did a 500 case sample and found two million dollars that was lost to fraud.

- In networking with people at the conference, one of the counties liked our survey idea and would like a copy of it.

- CICA will post materials on line from the conference.

(CAROLINE)

- Caroline attended:

- **Current IHSS Issues – Where are We Now with IHSS**
 - (A) IHSS Share of Cost
 - (B) Attempts to eliminate/sharply

curtail services

- **Bolstering Your Advisory Committee Toolbox** (Caroline felt our committee is in great shape compared to some of the others).
- **Knowing Your Allies Locally and State-wide.**
- Panel discussion on the future of Public Authority. People would like to see it more coordinated across the whole nation providing services wherever they are needed. They are looking to integrate in a much larger fashion.
- Marty Omoto spoke about knowing your allies and adversaries. He doesn't define an adversary as a foe – he defines them as someone who is not cooperating and doing right.
- The Future of California's Senior Programs (Ernie Powell, AARP) – they have coalition with CICA and they want to expand it.

- Please see handout for other information.

11. NEW BUSINESS

None

12. PUBLIC COMMENT

- Kim made a comment that many people need Disability Awareness Training.

- Caroline advised that there is a patient advocate in every hospital. In a continuing care facility ask for the long term care ombudsman.

- Randy was happy to hear that Brenda Premo was speaking at the Caretaker Appreciation Days.

- Kim made a motion that we do not have a meeting in December. Meeting in December is cancelled.

1st – Caroline; 2nd Sheila Brown – motion carried – next meeting will be January 5, 2011.

13. ADJOURNMENT

Motion for adjournment – 1st – Patti
2nd – Pat King

Meeting adjourned 11:18 a.m.

Debbie Lent

Nelma's Report

These websites have current information regarding advocacy on behalf of those with disabilities.

Arc of California

<http://www.arccalifornia.org/mysite/default.asp>

Arc – National Organization website

<http://www.thearc.org/page.aspx?pid=2530>

Kim's Report

Airline cites safety in ousting of wheelchair-bound frequent flyer.

From Megan Miller, CNN

October 16, 2010

Man told he's 'too disabled' to fly alone

- Johnnie Tuitel was removed from a plane because he was deemed to need too much aid
- He has cerebral palsy, but has flown nearly half a million miles in 20 years
- Tuitel is a motivational speaker for disabled people

The airline, US Airways, said he was ordered off the flight for his own safety.

... as the story spread to more media outlets, US Airways' "customer relations team" had an extremely productive discussion" with Tuitel.

"We asked Mr. Tuitel if he might be interested in working with us as a sounding board to help us continue to work toward improving our service for our customers with disabilities," she said.

Tuitel confirmed they had "a very productive talk."

"There's a general lack of understanding of disability amongst the entire travel industry, and I think that's simply because they look at it as a compliance issue, rather than a customer-service issue," said Donovan, who is the chief investment officer of IPS Capital.

CNN's Miguel Susana and Marnie Hunter contributed to this report.

Caroline's Report - CICA Conference

CICA (California In-Home Supportive Services Consumer Alliance)
8th Annual IHSS Advisory Committee Conference
October 22-24, 2010

CICA Advisory Committee Certification Training – 1st annual
Very intensive

- **Current IHSS Issues: Where We are Now with IHSS**
 - **IHSS Share of Cost**
 - **Attempts to eliminate/sharply curtail services**
- **Bolstering Your Advisory Committee Toolbox**

Panel Discussion: The Future of the Public Authority as a Way to Provide
Consumer Directed Homecare In American

- **Knowing Your Allies Locally & Statewide**
Knowing Your Allies & Adversaries
Marty Omoto, Executive Director,
California Disability Community Action Network (CDCAN)
- **The Future of California's Senior Programs**
Ernie Powell, AARP
 - **AARP for leverage in coalition with CICA**

Recommendations:

- **Monthly budget breakout presented - ~\$53,000.00/yr**
- **By-Laws – copy for each member**
- **Refer to appropriate sub-committee**
 - 1) **Possibly partially fund the Public authority Newsletter through full page ad including ½ page when/where IHSSAC meets.**
 - 2) **Possibility of Long-Term Care Ombudsman paying for ad, too**
 - 3) **Invite CICA speaker – why should we join.**
Cost is \$2,000.00 year

Supreme Court Upholds ADA 'Integration Mandate' in *Olmstead* decision

Washington, DC, June 22, 1999 -- In rejecting the state of Georgia's appeal to enforce institutionalization of individuals with disabilities, the Supreme Court today affirmed the right of individuals with disabilities to live in their community in its 6-3 ruling against the state of Georgia in the case *Olmstead v. L.C. and E.W.*

Under Title II of the federal Americans with Disabilities Act, said Justice Ruth Bader Ginsburg, delivering the opinion of the court, "states are required to place persons with mental disabilities in community settings rather than in institutions when the State's treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities. "

The 'integration mandate' of the Americans with Disabilities Act requires public agencies to provide services "in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The high court upheld that mandate, ruling that Georgia's department of human resources could not segregate two women with mental disabilities in a state psychiatric hospital long after the agency's own treatment professionals had recommended their transfer to community care.

The lower courts ruled the state violated the ADA's "integration mandate" and Georgia appealed, claiming the ruling could lead to the closing of all state hospitals and disruption of state funding of services to people with mental disabilities.

However, the women were supported by a number of states, disability organizations and others, including the U.S. solicitor general, who said "The unjustified segregation of people in institutions, when community placement is appropriate, constitutes a form of discrimination prohibited by Title II [of the ADA]."

Originally, 26 states had signed onto an Amicus Brief in support of Georgia's position. However, an extensive education campaign by the disability rights movement reduced that number to just seven.

Legislative history. . .

The Americans with Disabilities Act is a plenary civil rights statute designed to halt all practices that segregate persons with disabilities and those that treat them . . . differently. By enacting the ADA, we are making a conscious decision to reverse a sad legacy of segregation and degradation.

Statement of Rep. Ron Dellums (D.-Calif.)

during the final passage of the ADA in the House of Representatives I have seen these institutions. The smell of human waste and detergent has stuck in my throat. I have looked into the vegetative eyes of its inmates in their sterile environments, I have heard of the premature death ratio and prevalence of pneumonia and necrotic decubitus, literally allowing them to rot in their beds, these living dead, our imprisoned Americans with disabilities. At a hearing on the bill before the Subcommittee on Select Education of the House Committee on Education and Labor in 1989, Cindy Miller talked about her "realistic," "constant fear" that she might be institutionalized. "Please enact the ADA quickly," she told members of Congress.

"Getting people . . . out of institutions" was named specifically by Senator Tom Harkin (D.-Iowa) in his remarks introducing the 1989 version of the ADA in the 101st Congress. Our country had "created monoliths of isolated care in institutions and in segregated educational settings," former Sen. Lowell Weicker testified during 1989 Senate hearings on the bill. Society made disabled people "invisible by shutting them away in segregated facilities" Rep. George Miller (D.-Calif.) said in a Congressional debate on the bill.

Senator Harkin noted that the Act was needed to address the absence of protection against discrimination in "all services provided by State and local governments. . . ." (Statement accompanying his introduction of the ADA bill in the Senate, 135 CONG. REC. 8505, 8508 (1989))

Title II is intended "to cover all programs of state or local governments, regardless of the receipt of federal financial assistance," said a House Judiciary report. (House Judiciary Committee Report at 49, reprinted in 1990 U.S.C.C.A.N. at 472) The Senate Committee report and the report of the House Committee on Education and Labor declared in identical language that the "first purpose" of Title II is "to make applicable the prohibition against discrimination on the basis of disability . . . to all programs, activities, and services provided or made available by state and local governments." (Senate Report at 44; Education & Labor Committee Report at 84, reprinted in 1990 U.S.C.C.A.N. at 366)

One June 22, 1999, the U. S. Supreme Court ruled in the case *Olmstead v. L.C. and E.W.* that the "integration mandate" of the Americans with Disabilities Act requires public agencies to provide services "in the most integrated setting appropriate to the needs of qualified individuals with disabilities." Disabled people segregated in institutions have used it to require states provide services in the community.

Olmstead v. L.C. and E.W. reached the Supreme Court when the Georgia Department of Human Resources appealed a decision by the 11th Circuit that it had violated the ADA's "integration mandate" by segregating two women with mental disabilities in a state psychiatric hospital -- long after the agency's treatment professionals had recommended their transfer to community care.

Lois Curtis, 31, and Elaine Wilson, 47, have mental disabilities. Each was hospitalized repeatedly over two decades, with periodic discharges to inappropriate settings--including a homeless shelter--followed by return to the hospital. Only after Atlanta Legal Aid attorney Susan Jamieson brought a lawsuit in 1995 were they moved to a small group home.

Attorneys general withdraw support for Georgia's appeal

When Georgia asked the Supreme Court to review the decision of the U.S. Court of Appeals for the 11th Circuit, 22 state attorneys general, led by Florida's, filed a supporting brief. They contended that the ruling would lead to lawsuits forcing closure of all state hospitals and disrupting states' funding of services for people with mental disabilities.

However, by the deadline for filing on Georgia's behalf, 12 of the 22 states had withdrawn their support for Georgia's appeal, and more states are continuing to distance themselves from the position taken by Georgia. The 12 were Alabama, California, Delaware, Florida, Maryland, Michigan, Nebraska, New Hampshire, Pennsylvania, South Dakota, Utah and West Virginia, plus the territory of Guam. For the latest updates on which states have removed themselves from the brief, contact the Bazelon Center.

This highly unusual action has prompted news coverage in many states. Among newspapers covering this story, see

The Seattle Times'
"State's legal stance worries the disabled,"
By Dionne Searcey
Feb. 12, 1999

The Boston Globe's
"State's move enrages advocates for disabled,"
By Shelley Murphy
Feb. 26, 1999

From the briefs. . .

"One of the congressional hearings on the ADA legislation in the 100th Congress devoted considerable attention to institutionalization. Americans with Disabilities Act of 1988: Hearing on H.R. 4498 Before the Subcommittee on Select Education of the House Committee on Education and Labor, 100th Cong. (1988). Witnesses provided dramatic, and at times graphic, descriptions of the damaging effects of segregated treatment facilities. Senator Harkin made the intent to address segregated treatment programs crystal clear, when, in introducing the 1989 version of the ADA in the 101st Congress, he expressly listed, as one of the intended consequences of the legislation, "getting people . . . out of institutions . . ."

To refute the argument made by the remaining 11 states, Oregon's director of human resources and 57 former commissioners of mental health and directors of developmental disabilities, representing 36 states and the District of Columbia, have submitted a brief on behalf of the women. They point out that at least three quarters of the states are already reorganizing their systems to provide most services for people with mental disabilities in the community, at less than half the cost of institutional care. Therefore, their brief asserts, Georgia and the states supporting its appeal are wrong to contend that the lower courts' decision would unreasonably burden states or result in "careless deinstitutionalization." [Read this brief at the Bazelon Center site](#)

The commissioners' brief and another, filed by 30 national and seven Georgia organizations, document the cost differential between institutional and community care. For example, the daily cost of care in the mental retardation unit at Georgia Regional Hospital-Atlanta, where the women were confined, was \$283 in 1996, compared to the daily cost for community services of \$118 to \$124. National studies cited in the briefs show a similar pattern. For example, one compared community costs, including housing, of \$60,000 per year for a discharged psychiatric patient to \$130,000 for institutional care.